REMARKS

Claims 1-2, 49 and 11-27 are pending in the application for the Examiner's review and consideration. Applicant notes that the Examiner states that claims 1-27 are pending. Claim 3, however, was canceled in the amendment filed on August 20, 2001. Claim 10 was canceled and the features of claim 10 incorporated into claims 1 and 24. Accordingly, claims 1 and 24, as amended, now recite that the pharmaceutical compositions further comprise at least one of a cysteine component, magnesium component, manganese component, copper component, or selenium component (*See, e.g.*, Specification, page 15, lines 26-28 and original claim 10). Claim 11 was amended to depend from claim 1 rather than canceled claim 10. As no new matter has been added, Applicant respectfully submits that all claims are in condition for allowance.

THE DOUBLE PATENTING REJECTION

Claims 1-27 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-30 of copending Application No. 09/501,218. As this is a provisional rejection, Applicants will address the rejection when either copending Application No. 09/3501,218 or the present application is allowed.

THE REJECTIONS UNDER 35 U.S.C. § 102

Claims 24-27 were rejected under 35 U.S.C. § 102(a) as being anticipated by U.S. Patent No. 5,985,300 to Crotty et al. ("Crotty") for the reasons set forth on page 3 of the Office Action. Applicant respectfully traverses the rejection.

Crotty discloses a cosmetic product that is an adhesive strip to remove keratotic plugs and to deliver active ingredients to the skin (*See, e.g.*, Crotty, column 2, lines 40-42). A variety of active ingredients are disclosed.

Crotty, however, fails to disclose several important features recited in claim 24, as amended. Claim 24, as amended, recites a dermatological agent comprising at least one fruit extract in an amount sufficient to neutralize free radicals; a transition metal component in an amount sufficient to inhibit or reduce inflammation; a hydrophobic moisturizing agent, *a hydrophilic moisturizing agent*, a mono- or poly-hydroxy acid moisturizing agent, *at least one of a cysteine component, magnesium component, manganese*

component, copper component, or selenium component, and a pharmaceutically acceptable carrier. There is absolutely no disclosure, or even a suggestion, in Crotty of a composition that includes all three of the types of moisturizing agents disclosed in independent claim 24, as amended. Although Crotty discloses alpha- and beta-hydroxycarboxylic acids and ceramides (which are a hydrophobic moisturizer), there is absolutely no disclosure or suggestion of a hydrophilic moisturizer as required by claim 24, as amended.

Furthermore claim 24, as amended, now recites that the dermatological agent includes at least one of a cysteine component, magnesium component, manganese component, copper component, or selenium component. Crotty is completely silent as to a cysteine component, magnesium component, manganese component, copper component, or selenium component. Since anticipation requires that each and every element of a claim must be taught by a single prior art reference, Applicant respectfully submits that Crotty does not anticipate claims 24-27, as amended.

Claims 24-27 were also rejected under 35 U.S.C. § 102(a) as being anticipated by U.S. Patent No. 5,571,503 to Mausner ("Mausner") for the reasons set forth on pages 3-4 of the Office Action. Applicant respectfully traverses the rejection.

Mausner discloses a cosmetic composition comprising water and, emulsified in the water, (1) an anti-pollution complex, (2) a micellar complex, (3) an anti-free radical complex, and (4) a sunscreen (*See, e.g.*, Mausner, column 1, lines 46-58). The compositions provide protection from environmental pollution, protect from ultraviolet light and free radicals, and moisturize the skin (*See, e.g.*, Mausner, column 1, lines 34-38).

Mausner, similar to Crotty, is completely silent as to a cysteine component, magnesium component, manganese component, copper component, or selenium component. Since anticipation requires that each and every element of a claim must be taught by a single prior art reference, Applicant respectfully submits that Mausner does not anticipate claims 24-27, as amended. For the above reasons, Applicant respectfully request that the rejection of claims 24-27 under 35 U.S.C. § 102(a) be reconsidered and withdrawn.

THE REJECTIONS UNDER 35 U.S.C. § 103

Claims 1-27 were rejected under 35 U.S.C. § 103(a) as being obvious over Mausner, in view of Crotty and U.S. Patent No. 5,891,440 to Lansky ("Lansky") for the

reasons set forth on pages 4-5 of the Office Action. Applicant respectfully traverses the rejection.

Lansky teaches an oral phytoestrogen supplement prepared from pomegranate material, *e.g.*, pomegranate seeds, and schizandra berries and Chinese asparagus root (*See e.g.*, Lansky, Column 2, lines 49-56). Lanksy also teaches an ointment prepared by pressing pomegranate seed to obtain oil and mixing the oil with coconut milk to form a mixture (*See e.g.*, Lansky, Column 3, lines 7-11). Lansky further discloses that the oral supplement or ointment may be administered to relieve various symptoms in menopausal women or postmenopausal women (*See e.g.,* Lansky, Column 3, lines 50-56).

As discussed above, neither Mausner nor Crotty disclose or suggest a dermatological agent that includes a cysteine component, magnesium component, manganese component, copper component, or selenium component. Lansky does not remedy the deficiencies in Mausner or Crotty. Lansky also does not disclose or suggest a dermatological composition that includes a cysteine component, magnesium component, manganese component, copper component, or selenium component. Indeed, Lansky, similar to the other references, does not even mention any of these components. As noted in the specification each of these ingredients provides an important benefit that is neither disclosed or suggested by any of the cited references. For example, the cysteine component assists in thickening the dermis, supplementing of collagen and elastic tissue, and, thus, reduces wrinkles (*See, e.g.*, Specification, page 15, lines 29-31); the manganese component is the co-factor used by the natural enzymatic antioxidant SOD found in mitochondria and, thus, facilitates this mechanism of antioxidation (*See, e.g.*, Specification, page 16, lines 29-31 and page 20, lines 21-25); and the copper component inhibits elastase and, thus, assists in treatment of elastic tissue defects (*See, e.g.*, Specification, page 16, lines 14-15). None of the cited references disclose or suggest a dermatological agent comprising the combination of recited elements, in particular, at least one of a cysteine component, magnesium component, manganese component, copper component, or selenium component. For the above reasons, Applicant respectfully requests that the rejection under 35 U.S.C. 103(a) be reconsidered and withdrawn.

With regard to all claims not specifically mentioned, these are believed to be allowable not only in view of their dependency on their respective base claims and any intervening claims, but also for the totality of features recited therein.

All claims are believed to be in condition for allowance. Should the Examiner disagree, Applicant respectfully invites the Examiner to contact the undersigned attorneys for Applicant to arrange for an in-person interview in an effort to expedite the prosecution of this matter.

No fee is believed to be due for the amendments herein. Should any fee be required, please charge such fee to Pennie & Edmonds LLP Deposit Account No. 16-1150.

Respectfully submitted,

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for Victor N. Balancia

Date December 14, 2001

Paul E. Dietze (Reg. No. 45,627)
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Enclosure

APPENDIX A
MARKED UP VERSIONS OF THE AMENDED CLAIMS

Application No.: 09/501,217; Filed: February 10, 2000

2. (Amended twice) A dermatological agent for managing a dermatological condition in a patient comprising:

at least one fruit extract from pomegranate in an amount sufficient to neutralize free radicals;

a hydrophobic moisturizing agent in an amount sufficient to facilitate hydration of the patient's skin;

or hydrophilic moisturizing agent in an amount sufficient to facilitate hydration of the patient's skin;

a mono- or poly-hydroxy acid moisturizing agent in an amount sufficient to exfoliate at least a portion of the patient's skin;

at least one of a cysteine component, magnesium component, manganese component, copper component, or selenium component; and

a pharmaceutically acceptable carrier.

11. (Amended) The dermatological agent of claim 1 [10], wherein the cysteine component, if present, is N-acetyl cysteine and is present in an amount from about 1 to 10 weight percent, the magnesium component, if present, is magnesium ascorbate and is present in an amount from about 1 to 10 weight percent, wherein the magnesium is present in an amount from about 10 to 30 weight percent of the complex, the manganese component, if present, is manganese ascorbate and is present in an amount from about 0.5 to 10 weight percent, wherein manganese is present in an amount from about 5 to 20 weight percent of the complex, or the copper component, if present, is copper sebacate and is present in an amount from about 0.01 to 5 weight percent, wherein the copper is present in an amount from about 5 to 20 weight percent of the complex.

24. (Amended twice) A dermatological agent for managing a dermatological condition in a patient comprising:

at least one fruit extract in an amount sufficient to neutralize free radicals;

a transition metal component in an amount sufficient to inhibit or reduce inflammation;

a hydrophobic moisturizing agent in an amount sufficient to facilitate hydration of the patient's skin;

a hydrophilic moisturizing agent in an amount sufficient to facilitate hydration of the patient's skin;

a mono- or poly-hydroxy acid moisturizing agent in an amount sufficient to exfoliate at least a portion of the patient's skin;

at least one of a cysteine component, magnesium component, manganese component, copper component, or selenium component; and

a pharmaceutically acceptable carrier.